

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.606(b),)	MB Docket No. 01-325
Table of Allotments,)	RM-10136
Television Broadcast Stations.)	
(Green Bay, Wisconsin))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 27, 2005

Released: May 6, 2005

By the Chief, Video Division:

1. At the request of Green Bay 44, LLC (“Green Bay”), an applicant for a construction permit for a new television station to operate on channel 44 at Green Bay, Wisconsin, the Commission has before it the Notice of Proposed Rule Making, 16 FCC Rcd 20976 (2001), proposing the substitution of channel 50 for channel 44 at Green Bay. Green Bay filed comment stating its intention to apply for channel 50, if allotted. Television Wisconsin, Inc. (“WISC”), licensee of WISC-DT, Madison, Wisconsin. Green Bay and Ace TV, Inc., filed reply comments and WISC filed an Informal Opposition.¹

2. Green Bay states that it filed its petition for rule making pursuant to the provisions outlined in the Commission’s Public Notice (“*Public Notice*”) released on November 22, 1999, DA 99-2605.² Green Bay seeks to change the allotment at Green Bay in order to eliminate the potential interference concerns associated with the use of channel 44. Green Bay claims that its application for channel 44 would cause interference to co-channel station WMMG-DT at Fond du Lac,

¹ After the record closed, WISC filed an Informal Opposition and Green Bay filed a Motion for Extension of Time and a Reply to the Informal Opposition. In its opposition, WISC questions the population figures used by Green Bay when calculating interference levels. WPBN/WTOM License Subsidiary, Inc. (“WPBN”), licensee of station WPBN-TV, channel 7 and DTV channel 50, Traverse City, Michigan, filed its comments 28 days after the record closed, claiming adoption of Green Bay’s proposal could cause new interference to WPBN-DT’s co-channel operation at Traverse City. Ace TV, Inc. (“Ace”), licensee of station WACY(TV), channel 32, Appleton, Wisconsin, also filed untimely comments, stating that the Commission should not authorize the use of in-core channel spectrum for new NTSC station until existing out-of-core digital stations have been allotted in-core channels. Ordinarily, in a contested proceeding, we would not accept late file comments. However, in this case acceptance of the Green Bay reply to the informal opposition would be in the public interest since its acceptance facilitates resolution of this proceeding by providing the Commission’s engineering staff with a new directional antenna pattern and a proposal to reduce power.

² In that *Public Notice*, the Commission opened a window filing opportunity to allow persons with certain pending requests for new analog (NTSC) television stations to modify their requests to eliminate technical conflicts with digital television (DTV) stations and to move from channels 60 through 69.

Wisconsin.

3. WISC filed comments stating that the use of channel 50 at Green Bay will interfere with WISC's authorized facilities. WISC submits that it holds a permit authorizing construction on DTV channel 50 at "maximized" parameters, with a maximum ERP of 603 kW and radiation center HAAT of 466 meters. WISC argues that its engineering demonstrates that Green Bay proposed channel change will cause a 0.8% increase in interference to WISC's maximized facilities, which were proposed October 27, 1999, and granted October 31, 2000.

4. In rebuttal, Green Bay states that the alleged interference to the maximized facilities of station WISC-DT, can be reduced by lowering the ERP of the proposed facility at Green Bay and rotating the station's directional antenna pattern. Green Bay claims this would reduce the interference to WISC-DT to 0.483%, which is within the 0.5 % rounding tolerance. Further, Green Bay states that the city-grade, Grade A and Grade B contours, as revealed in its engineering studies, demonstrate that the power reduction and rotated directional antenna pattern will not have a negative impact on Green Bay's ability to serve the community of Green Bay.

5. We believe the public interest would be served by adopting this proposal since it would enable Green Bay to eliminate the potential for interference to station WMMG-DT at Fond du Lac, Wisconsin. Our review of Green Bay's modified directional antenna pattern with reduced ERP of 802 kW indicates compliance with all of the Commission's interference protection requirements. Channel 50 can be allotted to Green Bay with a plus offset at coordinates 44-30-48 N. and 88-00-24 W. Since the community of Green Bay is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government has been obtained for this allotment.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective June 20, 2005, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Green Bay, Wisconsin	2+, 5+, 11+, 26+, *38, 50+, *51

7. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this *Report and Order* to the following:

Andrew S. Kersting, Esq.
Dickstein, Shapiro, Morin & Oshinsky LLP
2101 L Street NW
Washington, DC 20037-1526

8. IT IS FURTHER ORDERED, That within 45 days of the effective date of this *Order*, Green Bay 44, LLC shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying TV Channel 50+ in lieu of TV Channel 44+.

9. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, *see* U.S.C. 801(a)(1)(A).

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Pam Blumenthal, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau